

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Texas is recognized.

MEASURE PLACED ON THE CALENDAR—S. 2207

Mr. CORNYN. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2207) to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

Mr. CORNYN. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. CORNYN. I thank the Chair.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Texas.

MARRIAGE

Mr. CORNYN. Mr. President, I want to say a few words about a hearing we are going to have tomorrow in the Senate Judiciary Committee on the subject of marriage. I know the last thing I thought I would be doing, coming from Texas to Washington, DC, would be talking about traditional marriage, but such are the times we live in.

Earlier this month I chaired a hearing in the Judiciary Committee's Subcommittee on the Constitution regarding the U.S. Supreme Court's decision last summer in *Lawrence v. Texas*, as well as the Goodridge decision from the Massachusetts Supreme Court that resulted from it, and the subsequent explosion of the marriage controversy across America. I thought we had a very thought-provoking discussion, a bipartisan discussion, and one that will continue at our hearing tomorrow where proposed constitutional language is the subject.

At the hearing earlier this month I was moved by the sentiments of Pastor Daniel de Leon of the Templo Calvario Church in California and Rev. Richard Richardson of the African Methodist Episcopal Church in Boston, who we were honored to have in attendance.

Both testified they would rather be at home than having to defend tradi-

tional marriage here in Washington. But it is because of the work they do in their own communities, because they see the results of the decline of marriage in their communities every day, that they believe traditional marriage is so important and worth defending.

This is a discussion we will continue to have in the coming months. I believe it is vital that we have a national discussion on the importance of this institution, and a discussion based upon the facts.

In recent months, a lot of people have spent time talking about the benefits of marriage for adults. They have talked about hospital visiting rights and inheritance problems, even though many of these issues can be solved simply and quickly by statute or arrangements that can be achieved by simply signing a few simple documents.

This discussion, in terms of the benefits to adults, has included discussion of Government benefits, even though with these benefits come burdens, and the actual financial ramifications of these benefits are a matter for future debate.

Today it is time to turn the debate to what I believe is an even more important issue—that is, the benefits of marriage to children.

It is easy for some people to step back and say: The same-sex marriage controversy doesn't affect me. But the facts, demonstrated by experiments in other countries, show us otherwise. The facts show us this issue affects everyone, but especially children. None of us can pretend to ignore this issue, and none of us can afford to be neutral on this subject.

Scandinavia has treated same-sex households as marriage for more than a decade. This practice was instituted in Denmark in 1989, in Norway in 1993, and in Sweden in 1994. The direct reaction was relatively small. Very few people were actually interested in being part of this new arrangement, and to this day the number of participating individuals and households remains low.

The greatest effect was not on those who had sought the new institution but, in fact, on society at large. Sad to say, there has been an enormous rise in family dissolution and out-of-wedlock childbirths in these countries since they embraced the institution of same-sex marriage.

Today, about 15 years after Denmark created this new institution, a majority of children in Scandinavia are born out of wedlock, including more than 50 percent of children in Norway and 55 percent of children in Sweden. In Denmark, a full 60 percent of first-born children have unmarried parents. In Scandinavia as a whole, traditional marriage is now an institution entirely socially separated from the idea of childbearing or child-rearing. It is regarded as an incidental union, not an important one.

Respected British demographer Kathleen Kiernan drew on the Scandinavian

case to form a four-stage model by which to gauge a country's movements towards Swedish levels of out-of-wedlock childbirth.

At stage one, the vast majority of the population produces children within marriage, such as in Italy. In the second stage, cohabitation is tolerated as a testing period before marriage and is generally a childless phase such as we currently have in America. In stage three, cohabitation becomes increasingly acceptable and parenting is no longer automatically associated with marriage. While Norway was once at this stage, recent demographic and legal changes have pushed it further into stage four, along with Sweden and Denmark. In this fourth stage, marriage and cohabitation become practically indistinguishable, with many children—even most children—born and raised outside of traditional marriage. According to Kiernan, once a country has reached this stage, return to an earlier phase is highly unlikely.

As you can see, the dilution of marriage is passed on to children, to the next generation, and the devaluation continues. And in America, the results could be even more significant than in Scandinavia; after all, we are already facing the problem of too many single-parent households, particularly in inner-city communities.

When the ideal of traditional marriage is removed, when cohabitation and marriage are equally regarded, and when childbearing is no longer something that ought to ideally come within the context of traditional marriage, I fear the problem of single-parent households will only worsen.

While many single parents do a very good job day in and day out raising children against long odds, no one considers it the best arrangement for raising children—with good reason. Indeed, we have a wealth of social science research from hundreds of sources over the course of decades which consistently reflects both the positive ramifications for children of a stable traditional marriage, and the negative effects of family breakup.

Marriage provides the basis for the family, which remains the strongest and most important social unit. Countless statistics and research attest to this fact. It is not ideal to raise children outside of marriage. While everyone is free to choose his or her own path, no one wishes divorce on children but, rather, a happy and stable home.

In America, we have made the decision that we ought to particularly encourage and support those who marry and have children. This is not a partisan issue. As one of the most distinguished Democratic Members of this body, Senator Daniel Patrick Moynihan, observed more than a decade ago, we must stop "the breakup of family inevitably" as best we can:

[T]he principal social objective of the American national government at every level . . . should be to see that children are born into intact families and that they remain so.

We don't raise our neighbor's children as our own, but we do help all the children in our community every time we affirm and reinforce marriage—through our speech, through our action, through our culture, and through our wallets. It is a position reinforced through our laws and our practices, and I believe it is a good one. Government cannot be neutral, should not be neutral, nor should it pretend it is possible to be neutral when it comes to children and families.

Most Americans take for granted that traditional marriage as we know it today will always exist. But that is sadly proving to be a mistake. We see in Scandinavia why that assumption is a mistake.

Across this country today, renegade judges and some local officials are attempting to radically redefine this traditional institution. Lawsuits seeking to dismantle traditional marriage have already been filed in Federal court and State courts in Massachusetts, New York, Nebraska, Utah, Florida, Indiana, Iowa, Georgia, West Virginia, Arizona, Alaska, Hawaii, New Jersey, Connecticut, Oregon, Washington, California, and Vermont, as well as my home State of Texas. According to the New York Times, we can expect lawsuits in 46 States by residents who have traveled to San Francisco in recent weeks to receive a marriage license, then return and claim the validity of that marriage under the laws of their home State.

Louis Brandeis famously described the States as "laboratories for democracy." But he was, of course, referring to representative government in the States and not to the courts. Given how this litigation has spread, it appears that judicial activists bent on experimenting with the institution of marriage will have every possible opportunity to do so.

The American people are not persuaded that this radical redefinition of marriage is needed or that it is a good thing. When given the opportunity in the voting booth, they have always supported traditional marriage clearly and forthrightly.

While The New York Times recently described the law on this subject in California as "murky," the California family code clearly defines traditional marriage in an initiative enacted by voters themselves 4 years ago by 61-percent majority.

Rather than believing this discussion is altogether a bad thing, I believe there is a lot of good to be had out of a national discussion on the issue and importance of traditional marriage, supporting family life as providing the best hope for raising children. Those of us on the side of traditional marriage, though, must not flinch in the face of those who would try to characterize our efforts as some hateful or hurtful position. Indeed, I believe advocates of traditional marriage must not back down. We must not allow those who will try to paint our motivations as

discriminatory because, in fact, they are not.

What we are seeking to preserve is the fundamental bedrock of our society, the wellspring of families, and an institution that is in the best interest of children. That is what we are for. Those of us who have the honor of serving in this body and in government have a duty to act to protect this positive social good and not ignore this issue until it is too late.

Some activists believe traditional marriage itself is about discrimination, that all traditional marriage laws are unconstitutional and must, therefore, be abolished by the courts. Indeed, that is what the court in Massachusetts said. These activists found friends in four justices in Massachusetts who were legislating from the bench and who contended that traditional marriage is "rooted in persistent prejudices" and represents "invidious discrimination." Those are not my words. Those are the words of the four justices who struck down traditional marriage laws in Massachusetts.

Indeed, these justices even claim that traditional marriage is not in the best interest of children. They accuse others of wanting to write discrimination into the Constitution. Yet they are the ones writing the American people out of our constitutional democracy.

In the face of similar arguments, Hawaiians and Alaskans a number of years ago took preemptive action when they were faced with State constitutional challenges to their traditional marriage laws. Citizens of Nebraska, Nevada, and other States have also taken preemptive action under their State constitutions before suits were even filed.

Interestingly, in the hearing we had just a couple weeks ago, we heard from Nebraska Attorney General Jon Bruning, who said that while his state has a Constitutional Defense of Marriage Amendment, even that amendment has now been challenged in Federal Court by the American Civil Liberties Union, who claim that this state constitutional provision itself violates the Federal Constitution.

The threat to traditional marriage is now a Federal threat, and a Federal constitutional amendment is the only way to preserve traditional marriage laws nationwide before it is too late.

America needs stable marriages and stable families. The institution of marriage is just too important to leave to chance.

Unless and until the American people are persuaded otherwise, we have a duty, as their representatives, to defend the laws they passed and to not let those who would take the law into their own hands reshape society according to their whim.

We can be confident in the fact a constitutional amendment is the most representative process we have in American law—requiring, as it does, two-thirds of the Congress to pass a constitutional resolution and three-quar-

ters of the States to ratify it. It is the most democratic form of lawmaking we have in this country, bar none.

The burden of proof is on those who seek to experiment with traditional marriage, an institution that has sustained society for countless generations. The experimenters must present their case to us that the radical new social unit they propose is good for the community, good for families and, most important of all, good for children. Thus far, the lab for this experiment has already been run in Scandinavia, and it has produced nothing but disastrous results.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

SOARING GASOLINE PRICES

Mr. WYDEN. Mr. President, gasoline prices are soaring to the highest levels ever and once again the response of the Federal Government is to do nothing. I have come to the floor today because I believe the gasoline consumer is about to be hit by a perfect storm, a combination of refinery cutbacks that boost profits, the fact that oil is being moved into the Strategic Petroleum Reserve with no plan to protect the consumer from resulting shortages, and the prospect of even higher OPEC prices when OPEC cuts production possibly in June, just at the start of the high travel season. I want to discuss this today because inaction in the face of spiraling gas prices is the worst possible response Congress and the administration could have at this time.

Higher oil and gasoline prices act like attacks on our consumers, causing them to defer spending in order to pay for gasoline. Right now, consumer spending is the principal ingredient driving our economy. If consumer spending declines, economic recovery is going to be delayed and there is the chance of the economy sliding further into a recession.

I know gasoline prices are already as high as they have ever been, and the perfect storm I see coming in the days ahead is going to soak consumers for even more money at the pump with the prices already staggering.

According to the American Automobile Association, the national average price of gasoline is \$1.72 per gallon. That is just 2 cents short of the alltime high set last August and, of course, it is not even the peak driving season. California prices are consistently way over \$2 per gallon. The prices in my State are consistently in the ballpark of \$1.80. I will outline this afternoon